SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1125 be amended to read as follows:

Page 2, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 2. IC 6-2.5-5-41, AS AMENDED BY P.L.235-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 41. (a) As used in this section, "qualified media production" has the meaning set forth in IC 6-3.1-32-5.

(b) Except as provided in ~~subsections~~ **subsection** (d), ~~and (c),~~ a transaction involving tangible personal property is exempt from the state gross retail tax if the person acquiring the property acquires it for the person's direct use in a qualified media production in Indiana after December 31, 2006.

(c) For purposes of this section, the following are not considered to be directly used in the production of a qualified media production:

(1) Food and beverage services.

(2) A vehicle or other means of transportation used to transport actors, performers, crew members, or any other individual involved in a qualified media production.

(3) Fuel, parts, supplies, or other consumables used in a vehicle or other means of transportation used to transport actors, performers, crew members, or any other individual involved in a qualified media production.

(4) Lodging.

(5) Packaging materials.

(d) A person is not entitled to an exemption under this section with respect to a transaction involving tangible personal property that is:

(1) a qualified production expenditure (as defined in IC 6-3.1-32-6) for which a tax credit is claimed under IC 6-3.1-32; or

(2) acquired for direct use in a qualified media production in Indiana if the transaction occurs after December 31, ~~2008.~~ **2011.**".

Page 2, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 4. IC 6-3.1-32-0.5 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 0.5. As used in this chapter, "affiliated group" means any combination of the following:**

(1) An affiliated group within the meaning provided in Section 1504 of the Internal Revenue Code (except that the ownership percentage in Section 1504(a)(2) of the Internal Revenue Code shall be determined using fifty percent (50%) instead of eighty percent (80%)) or a pass through entity if a member of the affiliated group is a shareholder, partner, or member of the pass through entity and the member of the affiliated group is entitled to at least fifty percent (50%) of the distributive income or loss of the pass through entity.

(2) Two (2) or more partnerships (as defined in IC 6-3-1-19), including limited liability companies and limited liability partnerships, that have the same degree of mutual ownership as an affiliated group described in subdivision (1), as determined under rules adopted by the department.

SECTION 5. IC 6-3.1-32-6, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) As used in this chapter, "qualified production expenditure" means any of the following expenses incurred in Indiana or expenditures in Indiana made in the direct production of a qualified media production in Indiana:

(1) The payment of wages, salaries, and benefits to Indiana residents.

(2) Acquisition costs for a story or scenario used in the qualified media production.

(3) Acquisition costs for locations, sets, wardrobes, and accessories.

(4) Expenditures for materials used to make sets, wardrobes, and accessories.

(5) Expenditures for photography, sound synchronization, lighting, and related services.

(6) Expenditures for editing and related services.

(7) Facility and equipment rentals.

~~(8) Food and lodging.~~

~~(9)~~ **(8)** Legal services if purchased from an attorney licensed to practice law in Indiana.

~~(10) Any other production expenditure for which taxes are assessed or imposed by the state.~~

(b) The term does not include expenditures for payments of wages, salaries, or benefits to an individual who is a director, a producer, a screenwriter, or an actor (excluding extras), unless the individual is a resident of Indiana.

SECTION 6. IC 6-3.1-32-8, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. As used in this chapter, "taxpayer" means an individual, **affiliated group,** or entity that has any state tax liability.

SECTION 7. IC 6-3.1-32-9, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. A qualified applicant that

(1) incurs or makes qualified production expenditures; ~~of:~~

~~(A) at least one hundred thousand dollars ($100,000), in the case of a qualified media production described in section 5(a)(1) of this chapter; or~~

~~(B) at least fifty thousand dollars ($50,000), in the case of a qualified media production described in section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter;~~ and

(2) satisfies the requirements of this chapter;

is entitled to a ~~refundable~~ tax credit as provided in this chapter.

SECTION 8. IC 6-3.1-32-10, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. This section applies to a taxpayer that claims qualified production expenditures of less than ~~six~~ **two** million dollars ~~($6,000,000)~~ **($2,000,000)** in a taxable year for purposes of the tax credit under this chapter. **Subject to section 14 of this chapter,** the amount of the tax credit to which a taxpayer is entitled under this chapter equals **the lesser of:**

(1) the product of:

~~(1)~~ **(A)** fifteen percent (15%); multiplied by

~~(2)~~ **(B)** the amount of the taxpayer's qualified production expenditures in the taxable year; **or**

(2) five thousand dollars ($5,000).

SECTION 9. IC 6-3.1-32-11, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. This section applies to a taxpayer that claims qualified production expenditures of at least ~~six~~ **two** million dollars ~~($6,000,000)~~ **($2,000,000)** in a taxable year for purposes of the tax credit under this chapter. **Subject to section 14 of this chapter,** if the corporation approves the granting of a tax credit to the taxpayer under section 13 of this chapter, the amount of the tax credit to which the taxpayer is entitled under this chapter equals the product of:

(1) the percentage determined by the corporation under section 13 of this chapter; multiplied by

(2) the amount of the taxpayer's qualified production expenditures in the taxable year.

SECTION 10. IC 6-3.1-32-14, AS ADDED BY P.L.235-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. ~~If~~ The amount of the tax credit provided under this chapter to a taxpayer in a taxable year ~~exceeds~~ **may not exceed** the taxpayer's state tax liability for that taxable year. ~~the~~ **A** taxpayer is **not** entitled to a **carryback, carryover, or** refund of ~~the excess.~~ **any unused credit.**".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1125 as printed February 13, 2008.)

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Senator KENLEY